

Title 79. Natural Resources

Chapter 1 General Provisions

79-1-101 Titles.

- (1) This title is known as "Natural Resources."
- (2) This chapter is known as "General Provisions."

Enacted by Chapter 344, 2009 General Session

79-1-102 Definitions.

As used in this title:

- (1) "Department" means the Department of Natural Resources created in Section 79-2-201.
- (2) "Executive director" means the executive director of the department who is appointed under Section 79-2-202.

Enacted by Chapter 344, 2009 General Session

Chapter 2 Department of Natural Resources

Part 1 General Provisions

79-2-101 Title.

This chapter is known as the "Department of Natural Resources."

Enacted by Chapter 344, 2009 General Session

79-2-102 Definitions.

As used in this chapter:

- (1) "Conservation officer" is as defined in Section 23-13-2.
- (2) "Species protection" means an action to protect a plant or animal species identified as:
 - (a) sensitive by the state; or
 - (b) threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- (3) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Enacted by Chapter 344, 2009 General Session

Part 2 Department Creation and Administration

79-2-201 Department of Natural Resources created.

- (1) There is created the Department of Natural Resources.
- (2) The department comprises the following:
 - (a) Board of Water Resources, created in Section 73-10-1.5;
 - (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;
 - (c) Board of Parks and Recreation, created in Section 79-4-301;
 - (d) Wildlife Board, created in Section 23-14-2;
 - (e) Board of the Utah Geological Survey, created in Section 79-3-301;
 - (f) Water Development Coordinating Council, created in Section 73-10c-3;
 - (g) Division of Water Rights, created in Section 73-2-1.1;
 - (h) Division of Water Resources, created in Section 73-10-18;
 - (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
 - (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;
 - (k) Division of Parks and Recreation, created in Section 79-4-201;
 - (l) Division of Wildlife Resources, created in Section 23-14-1;
 - (m) Utah Geological Survey, created in Section 79-3-201;
 - (n) Heritage Trees Advisory Committee, created in Section 65A-8-306;
 - (o) Recreational Trails Advisory Council, authorized by Section 79-5-201;
 - (p) Boating Advisory Council, authorized by Section 73-18-3.5;
 - (q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and
 - (r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.

Amended by Chapter 413, 2013 General Session

79-2-202 Executive director -- Appointment -- Removal -- Compensation -- Responsibilities.

- (1)
 - (a) The chief administrative officer of the department is an executive director appointed by the governor with the consent of the Senate.
 - (b) The executive director may be removed at the will of the governor.
 - (c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (2) The executive director shall:
 - (a) administer and supervise the department and provide for coordination and cooperation among the boards, divisions, councils, and committees of the department;
 - (b) approve the budget of each board and division;
 - (c) participate in regulatory proceedings as appropriate for the functions and duties of the department;
 - (d) report at the end of each fiscal year to the governor on department, board, and division activities; and
 - (e) perform other duties as provided by statute.
- (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director, may accept an executive or legislative provision that is enacted by the federal government, whereby the state may participate in the distribution, disbursement, or administration of a fund or service from the federal government for purposes consistent with the powers and duties of the department.
- (4)

- (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.
- (b) The executive director shall submit any plan to the governor for review and approval.

Renumbered and Amended by Chapter 344, 2009 General Session

79-2-203 Policy board members.

- (1) Members of a policy board within the department shall be appointed consistent with the following criteria:
 - (a) geographical distribution;
 - (b) expertise or personal experience with subject matter;
 - (c) diversity of opinion and political preference; and
 - (d) gender, cultural, and ethnic representation.
- (2) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.
- (3) No member of the Legislature may serve as a member of a division policy board.
- (4)
 - (a) In addition to the disclosures required by Section 67-16-7, a board member shall disclose any conflict of interest to the board.
 - (b) Notwithstanding Section 67-16-9, a board member with a substantial conflict may serve on the board if the member refrains from voting on a board action when the conflict involves:
 - (i) a direct financial interest in the subject under consideration; or
 - (ii) an entity or asset that could be substantially affected by the outcome of board action.

Renumbered and Amended by Chapter 344, 2009 General Session

79-2-204 Division directors -- Appointment -- Removal -- Jurisdiction of executive director.

- (1)
 - (a) The chief administrative officer of a division within the department is a director appointed by the executive director with the concurrence of the board having policy authority for the division.
 - (b) The director of a division may be removed from office by the executive director.
 - (c) The appointment and term of office of the state engineer, notwithstanding anything to the contrary contained in this section, shall be in accordance with Section 73-2-1.
- (2)
 - (a) The executive director has administrative jurisdiction over a division director for the purpose of implementing department policy as established by the division's board.
 - (b) The executive director may:
 - (i) consolidate personnel and service functions in the divisions to effectuate efficiency and economy in the operations of the department;
 - (ii) establish a departmental services division to perform service functions; and
 - (iii) employ law enforcement officers and special function officers within the department that have all of the powers of a conservation officer and law enforcement officer, with the exception of the power to serve civil process.

Renumbered and Amended by Chapter 344, 2009 General Session

79-2-205 Procedures -- Adjudicative proceedings.

Except as provided by Sections 40-10-13, 63G-4-102, and 73-2-25, a division, board, council, or committee referred to in Section 79-2-201 shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 3 Finances

79-2-301 Budget.

- (1) The department shall prepare and submit to the governor, to be included in the budget to be submitted to the Legislature, a budget of the department's requirements for expenses in carrying out the provisions of law during the fiscal year next following the convening of the Legislature.
- (2) The director of each division shall prepare, with the advice of the division's policy board, a budget of expenses for the next fiscal year, which shall be submitted to the executive director to aid in the preparation of the departmental budget.

Renumbered and Amended by Chapter 344, 2009 General Session

79-2-302 Fees.

- (1) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department.
- (2) A fee described in Subsection (1) shall:
 - (a) be reasonable and fair; and
 - (b) reflect the cost of services provided.
- (3) The department shall submit a fee established under this section to the Legislature as part of the department's annual appropriations request.
- (4) The department may not charge or collect a fee established under this section without approval of the Legislature.

Enacted by Chapter 344, 2009 General Session

79-2-303 Species Protection Account.

- (1) There is created within the General Fund a restricted account known as the Species Protection Account.
- (2) The account shall consist of:
 - (a) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23, Brine Shrimp Royalty Act; and
 - (b) interest earned on money in the account.
- (3) Money in the account may be appropriated by the Legislature to:
 - (a) develop and implement species status assessments and species protection measures;
 - (b) obtain biological opinions of proposed species protection measures;
 - (c) conduct studies, investigations, and research into the effects of proposed species protection measures;

- (d) verify species protection proposals that are not based on valid biological data;
 - (e) implement Great Salt Lake wetlands mitigation projects in connection with the western transportation corridor;
 - (f) pay for the state's voluntary contributions to the Utah Reclamation Mitigation and Conservation Account under the Central Utah Project Completion Act, Pub. L. No. 102-575, Titles II-VI, 106 Stat. 4605-4655; and
 - (g) pay for expenses of the State Tax Commission under Title 59, Chapter 23, Brine Shrimp Royalty Act.
- (4) The purposes specified in Subsections (3)(a) through (3)(d) may be accomplished by the state or, in an appropriation act, the Legislature may authorize the department to award grants to political subdivisions of the state to accomplish those purposes.
- (5) Money in the account may not be used to develop or implement a habitat conservation plan required under federal law unless the federal government pays for at least 1/3 of the habitat conservation plan costs.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 4

Miscellaneous

79-2-401 Volunteer workers authorized.

- (1) The department and its divisions may use volunteer workers to supplement the salaried work force.
- (2) A volunteer may be reimbursed for expenses actually and necessarily incurred, including transportation, meals, lodging, uniforms, and other items as approved by the Division of Finance, in the amounts and in accordance with the rules of the Division of Finance.
- (3) A volunteer is considered an employee of the state for the purposes stated in Section 67-20-3.
- (4) A volunteer may not donate a service to the department or a division unless the work program in which the volunteer would serve has first been approved, in writing, by the executive director and the executive director of the Department of Human Resource Management.
- (5) Volunteer services shall comply with the rules adopted by the Department of Human Resource Management relating to the services that are not inconsistent with this section.

Renumbered and Amended by Chapter 344, 2009 General Session

79-2-402 Outdoor recreation facilities -- Participation in federal programs -- Comprehensive plan.

- (1) The executive director may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek a federal grant or loan or participation in a federal program to plan and develop an outdoor recreation resource, including:
 - (a) acquiring land or water; or
 - (b) acquiring an interest in land or water.
- (2)
 - (a) The executive director, in cooperation with the state planning coordinator and the state agency or political subdivision responsible for planning, acquisition, and development of

- outdoor recreation resources, may prepare, maintain, and update a comprehensive plan for the outdoor recreation resources of the state.
- (b) The executive director shall submit the plan and any plan amendment to the governor for the governor's review and approval.
- (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director may:
- (a) apply to a United States agency for participation in or the receipt of aid from a federal program regarding outdoor recreation;
 - (b) in cooperation with other state agencies, enter into a contract or agreement with the United States or a United States agency;
 - (c) keep financial and other records; and
 - (d) furnish necessary reports to the United States official or agency.
- (4) In connection with obtaining the benefits of an outdoor recreation program, the executive director shall coordinate the department's activities with and represent the interests of all state agencies and political subdivisions having an interest in the planning, development, and maintenance of the outdoor recreation resource or facility.
- (5) The department may act as the agent of the state or a political subdivision to receive and to disburse federal money in accordance with the comprehensive plan.
- (6) The executive director may not make a commitment or enter into an agreement as authorized by this section and neither shall the governor approve a commitment or agreement unless sufficient funds are available to the department for meeting the state's share, if any, of project costs.
- (7) To the extent necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to a program participated in by the state under this section, the areas and facilities shall be publicly maintained for outdoor recreation purposes.
- (8) The executive director may enter into and administer an agreement with the United States or a United States agency with the governor's approval for planning, acquisition, and development projects involving participating federal-aid funds on behalf of a political subdivision, if the political subdivision gives necessary assurance to the executive director that:
- (a) the political subdivision has available sufficient funds to meet the political subdivision's share, if any, of the cost of the project; and
 - (b) the political subdivision will operate and maintain an acquired or developed area at the expense of the political subdivision for public outdoor recreation use.

Amended by Chapter 218, 2010 General Session

79-2-403 Rulemaking for sale of real property -- Licensed or certified appraisers -- Exceptions.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the department buys, sells, or exchanges real property, the department shall make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.
- (2) The rules:
 - (a) shall establish procedures for determining the value of the real property;
 - (b) may provide that an appraisal, as defined under Section 61-2g-102, demonstrates the real property's value; and
 - (c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2g-102.

- (3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or to an interest in real property:
- (a) that is under a contract or other written agreement before May 5, 2008; or
 - (b) with a value of less than \$100,000, as estimated by the state agency.

Amended by Chapter 289, 2011 General Session

79-2-404 Contracting powers of department -- Health insurance coverage.

- (1) For purposes of this section:
- (a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:
 - (i) works at least 30 hours per calendar week; and
 - (ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.
 - (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.
 - (c) "Qualified health insurance coverage" is as defined in Section 26-40-115.
 - (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.
- (2)
- (a) Except as provided in Subsection (3), this section applies a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).
 - (b)
 - (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.
 - (ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.
- (3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:
- (a) the application of this section jeopardizes the receipt of federal funds;
 - (b) the contract or agreement is between:
 - (i) the department or a division, board, or council of the department; and
 - (ii)
 - (A) another agency of the state;
 - (B) the federal government;
 - (C) another state;
 - (D) an interstate agency;
 - (E) a political subdivision of this state; or
 - (F) a political subdivision of another state; or
 - (c) the contract or agreement is:
 - (i) for the purpose of disbursing grants or loans authorized by statute;
 - (ii) a sole source contract; or
 - (iii) an emergency procurement.
- (4)
- (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

- (b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.
- (5)
- (a) A contractor subject to Subsection (2)(b)(i) shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.
 - (b) If a subcontractor of the contractor is subject to Subsection (2)(b)(ii), the contractor shall demonstrate to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.
- (c)
- (i)
 - (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
 - (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).
 - (ii)
 - (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
 - (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).
- (6) The department shall adopt administrative rules:
- (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (b) in coordination with:
 - (i) the Department of Environmental Quality in accordance with Section 19-1-206;
 - (ii) a public transit district in accordance with Section 17B-2a-818.5;
 - (iii) the State Building Board in accordance with Section 63A-5-205;
 - (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
 - (v) the Department of Transportation in accordance with Section 72-6-107.5; and
 - (vi) the Legislature's Administrative Rules Review Committee; and
 - (c) which establish:
 - (i) the requirements and procedures a contractor must follow to demonstrate compliance with this section to the department which shall include:
 - (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and
 - (B) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:
 - (I) the Utah Insurance Department;
 - (II) an actuary selected by the contractor or the contractor's insurer; or
 - (III) an underwriter who is responsible for developing the employer group's premium rates;
 - (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
 - (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

- (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
 - (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
 - (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and
 - (iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).
- (7)
- (a)
 - (i) In addition to the penalties imposed under Subsection (6), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.
 - (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
 - (A) the employer relied in good faith on a written statement of actuarial equivalency provided by:
 - (I) an actuary; or
 - (II) an underwriter who is responsible for developing the employer group's premium rates; or
 - (B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).
 - (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
- (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.
- (9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:
- (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
 - (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Amended by Chapter 425, 2014 General Session

Chapter 3

Utah Geological Survey

Part 1

General Provisions

79-3-101 Title.

This chapter is known as "Utah Geological Survey."

Enacted by Chapter 344, 2009 General Session

79-3-102 Definitions.

As used in this chapter:

- (1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.
- (2) "Board" means the Board of the Utah Geological Survey.
- (3) "Collection" means a specimen and the associated records documenting the specimen and its recovery.
- (4) "Critical paleontological resources" means vertebrate fossils and other exceptional fossils that are designated state paleontological landmarks as provided for in Section 79-3-505.
- (5) "Curation" means:
 - (a) management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions; and
 - (b) providing access to and facilities for studying collections.
- (6) "Curation facility" is as defined in Section 53B-17-603.
- (7) "Director" means the director of the survey.
- (8) "Excavate" means the recovery of critical paleontological resources.
- (9) "Museum" means the Utah Museum of Natural History.
- (10) "Paleontological resources" means remains of prehistoric life pertaining to the natural history of the state.
- (11) "Repository" is defined as provided in Section 53B-17-603.
- (12) "School and institutional land grants" means the transfer of properties pursuant to Sections 6 and 8 of the Utah Enabling Act and Utah Constitution Article XX.
- (13) "School and institutional trust lands" are those properties defined in Section 53C-1-103.
- (14) "Site" means any paleontological deposit or other location that is the source of a specimen.
- (15) "Specimen" means remains of a critical paleontological nature found on or below the surface of the earth.
- (16) "State Paleontological Register" means a register of paleontological sites and localities.
- (17) "Survey" means the Utah Geological Survey.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 2
Utah Geological Survey

79-3-201 Establishment of survey within the department -- General supervision of the survey.

The survey is established within the department under:

- (1) the administration and general supervision of the executive director; and
- (2) the policy direction of the board.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-202 Powers and duties of survey.

(1) The survey shall:

- (a) assist and advise state and local agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;
- (b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;
- (c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;
- (d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;
- (e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;
- (f) assist local and state agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;
- (g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of reports and maps;
- (h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;
- (i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;
- (j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;
- (k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;
- (l) stimulate research, study, and activities in the field of paleontology;
- (m) mark, protect, and preserve critical paleontological sites;
- (n) collect, preserve, and administer critical paleontological specimens until the specimens are placed in a repository or curation facility;
- (o) administer critical paleontological site excavation records;
- (p) edit and publish critical paleontological records and reports; and
- (q) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:
 - (i) renewable energy;
 - (ii) energy efficiency; and

- (iii) energy conservation.
- (2)
 - (a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.
 - (b) The board shall adopt rules in order to determine whether to accept the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.
 - (c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.
- (3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).
- (4)
 - (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.
 - (b) The survey may undertake joint projects with private entities if:
 - (i) the action is approved by the board;
 - (ii) the projects are not inconsistent with the state's objectives; and
 - (iii) the results of the projects are available to the public.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-203 Director of survey -- Designation as state geologist -- Qualifications -- Duties and authority.

- (1) The director is:
 - (a) the executive and administrative head of the survey; and
 - (b) designated the state geologist.
- (2) The director's qualifications shall include:
 - (a) graduation from a recognized university; and
 - (b) demonstrated competency in:
 - (i) the science of geology; and
 - (ii) administration.
- (3)
 - (a) The director administers the survey for the benefit of the public.
 - (b) A person may not call upon or require the director or his associates to enter upon any special survey for the benefit of that person.
- (4) The director, subject to review by the board and approval by the executive director of the department, may initiate cooperative agreements with private companies or parties or state or federal agencies to carry out the provisions of this chapter.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-204 Personnel of survey -- Employment -- Restrictions -- Salaries and benefits.

- (1) The director, after consultation with the board and approval by the executive director, shall select, employ, or contract for qualified individuals and services required to carry out the provisions of this chapter within the authorized programs and within the allocated and budgeted funds.
- (2)

- (a) Persons retained on a contract basis act in the capacity of independent contractors and are not subject to the Utah State Personnel Management Act.
- (b) Each contract written for the services described in Subsection (1) shall include the information in this Subsection (2).
- (3)
 - (a) An employee of the survey may not:
 - (i) have an interest in lands within the state that creates a conflict of interest harmful to the goals and objectives of the survey; or
 - (ii) obtain financial gain by reason of information obtained through work as an employee of the survey.
 - (b) The board shall resolve questions regarding potential conflicts and financial gain.
 - (c) For permanent employees, the restriction in Subsection (3)(a) is terminated at the end of a two-year period following termination of service or, with respect to information which is confidential and not a public record, for however long the information is classified as confidential and not a public record, whichever period of time is longer.
 - (d) The time periods established in Subsection (3)(c), which can be modified only after publication of the data, apply to contractors or consultants employed on special problems.
- (4)
 - (a) A survey employee may not engage in outside or private work which is or can be in conflict with the operations, goals, and objectives of the survey.
 - (b) The board shall resolve issues regarding outside or private work by a survey employee.
- (5) Survey personnel are paid in accordance with state salary schedules and are subject to state benefit and retirement programs.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-205 Investigatory powers and immunities of survey personnel.

- (1) Authorized survey personnel, after providing reasonable notification and identification, have the right to enter all lands subject to the police power of the state for the purpose of securing geologic, topographic, and mineral and water resource information or specimens and samples required by the survey in fulfillment of its objectives.
- (2) Survey personnel are immune from trespass while engaged on official business.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 3
Board of Utah Geological Survey

79-3-301 Board of Utah Geological Survey created.

- (1) There is created within the department the Board of the Utah Geological Survey.
- (2) The board is the policymaking body for the survey.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-302 Members of board -- Qualifications and appointment -- Vacancies -- Organization -- Meetings -- Financial gain prohibited -- Expenses.

- (1) The board consists of seven members appointed by the governor, with the consent of the Senate.
- (2) In addition to the requirements of Section 79-2-203, the members shall have the following qualifications:
 - (a) one member knowledgeable in the field of geology as applied to the practice of civil engineering;
 - (b) four members knowledgeable and representative of various segments of the mineral industry throughout the state, such as hydrocarbons, solid fuels, metals, and industrial minerals;
 - (c) one member knowledgeable of the economic or scientific interests of the mineral industry in the state; and
 - (d) one member who is interested in the goals of the survey and from the public at large.
- (3) The director of the School and Institutional Trust Lands Administration is an ex officio member of the board but without any voting privileges.
- (4)
 - (a) Except as required by Subsection (4)(b), members are appointed for terms of four years.
 - (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) No more than four members may be of the same political party.
 - (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the consent of the Senate.
- (5) The board shall select from its members a chair and such officers and committees as it considers necessary.
- (6)
 - (a) The board shall hold meetings at least quarterly on such dates as may be set by its chair.
 - (b) Special meetings may be held upon notice of the chair or by a majority of its members.
 - (c) A majority of the members of the board present at a meeting constitutes a quorum for the transaction of business.
- (7) Members of the board may not obtain financial gain by reason of information obtained during the course of their official duties.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

79-3-303 Responsibilities of board.

The board has the following responsibilities:

- (1) establish and review policies, programs, and priorities;
- (2) review and recommend budgets;
- (3) assess the needs of the community with regard to development and use of geologic resources;
- (4) keep the director advised concerning survey policies; and
- (5) enact rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the purposes of this chapter.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 4 Finances

79-3-401 Disposition of survey income -- Sources of funds.

- (1) Income to the survey is deposited with the state treasurer and credited by the treasurer to the General Fund as dedicated credits for use by the survey.
- (2) In addition to those funds that are available to the survey under Subsection (1), the Legislature shall provide such funds by appropriation as are reasonably necessary to meet the requirements of the survey in the performance of its duties and obligations.

Amended by Chapter 303, 2011 General Session

79-3-402 Utah Geological Survey Sample Library Fund.

- (1) There is created an expendable special revenue fund known as the "Utah Geological Survey Sample Library Fund."
- (2) The fund consists of money from the following revenue sources:
 - (a) donations or contributions from individuals, companies, organizations, or government entities; and
 - (b) interest generated by the fund.
- (3) The director shall administer the fund.
- (4)
 - (a) Donations and other contributions to the fund and unallocated interest as provided in Subsection (5)(c) shall constitute the fund's principal.
 - (b) The principal may be expended only with the concurrence of the board.
- (5)
 - (a) Interest generated by the fund may be expended to support the sample library as provided in Subsections (5)(b) and (c).
 - (b) An amount of money equal to or less than the interest generated by the fund in the previous fiscal year may be expended annually in support of the sample library.
 - (c) Funds that are eligible to be spent, but remain unallocated at the end of any fiscal year, revert to the fund and become part of the fund's principle.

Amended by Chapter 400, 2013 General Session

Part 5 Paleontology

79-3-501 Permit required to excavate critical paleontological resources on state lands -- Removal of specimen or site.

- (1)
 - (a) Before excavating for critical paleontological resources on lands owned or controlled by the state or its subdivisions, except as provided in Section 79-3-502, a person must obtain a permit from the survey.
 - (b) Application for a permit shall be made on a form furnished by the survey.

- (c) The survey shall make rules for the issuance of permits specifying or requiring:
 - (i) the minimum permittee qualifications;
 - (ii) the duration of the permit;
 - (iii) proof of permission from the land owner that the permittee may enter the property for purposes specified in the permit;
 - (iv) research designs that provide for the maximum recovery of scientific, paleontological, and educational information, in addition to the physical recovery of specimens and the reporting of paleontological information meeting current standards of scientific rigor;
 - (v) the need, if any, to submit data obtained in the course of field investigations to the survey;
 - (vi) proof of consultation with the designated museum representative regarding curation of collections;
 - (vii) proof of consultation with other agencies that may manage other legal interests in the land; and
 - (viii) other information the survey considers necessary.
- (2) All paleontological work shall be carried out under the supervision of the director, or assigned staff.
- (3) A person may not remove from the state, prior to placement in a repository or curation facility, a specimen, site, or portion of a specimen or site from lands owned or controlled by the state or its subdivisions, except as provided in Section 79-3-502, without permission from the survey, and without prior consultation with the landowner or other agencies managing other interests in the land.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-502 Permit required to excavate critical paleontological resources on school and institutional trust lands -- Removal of specimen or site.

- (1)
 - (a) Before excavating for critical paleontological resources on school or institutional trust lands, a person must obtain a permit from the School and Institutional Trust Lands Administration.
 - (b) The School and Institutional Trust Lands Administration may, by rule, delegate the authority to issue excavation permits for critical paleontological resources to the survey.
 - (c) Application for a permit shall be made on a form furnished by the School and Institutional Trust Lands Administration.
 - (d) Prior to issuing a permit, the school and institutional trust lands administration shall consult with the survey director, or assigned staff, pursuant to Section 79-3-508.
 - (e) The School and Institutional Trust Lands Administration shall enact rules for the issuance of permits specifying or requiring:
 - (i) the minimum permittee qualifications;
 - (ii) the duration of the permit;
 - (iii) the need, if any, to submit data obtained in the course of field investigations to the administration;
 - (iv) proof of consultation with the designated museum representative regarding curation of collections; and
 - (v) other information the School and Institutional Trust Lands Administration considers necessary.
- (2) A person may not remove from the state, prior to placement in a repository or curation facility, a specimen, site, or portion of a specimen or site from school and institutional trust lands

without permission from the School and Institutional Trust Lands Administration, granted after consultation with the survey.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-503 Ownership of collections and resources.

- (1) Collections recovered from lands owned or controlled by the state or its subdivisions, except as provided in Subsection (2), shall be owned by the state.
- (2) Collections recovered from school and institutional trust lands shall be owned by the respective trust.
- (3) Paleontological resources, other than critical paleontological resources, recovered from school and institutional trust lands, shall be owned by the respective trust and shall be managed pursuant to statutory authority of the School and Institutional Trust Lands Administration.
- (4) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated pursuant to Section 53B-17-603.
- (5) Specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-504 Revocation or suspension of permits -- Criminal penalties.

- (1) A permitting agency under Section 79-3-501 or 79-3-502 may revoke or suspend a permit if the permittee fails to conduct the excavation pursuant to the law, the rules enacted by the permitting agency, or permit provisions.
- (2)
 - (a) A person violating any provision of Section 79-3-501 or 79-3-502 is guilty of a class B misdemeanor.
 - (b) A person convicted of violating any provision of Section 79-3-501 or 79-3-502, or the rules promulgated by the survey or the School and Institutional Trust Lands Administration under those sections, shall forfeit to the state or the respective trust all paleontological resources discovered by or through the person's efforts, in addition to any penalties imposed.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-505 Paleontological landmarks.

- (1)
 - (a) Sites of significance or sites with exceptional fossils may be recommended to and approved by the board as state paleontological landmarks.
 - (b) No privately owned site or site on school or institutional trust lands may be so designated without the written consent of the owner or the trust.
- (2) A person may not excavate on a privately owned designated landmark without a permit from the survey.
- (3) Before an alteration is commenced on a designated landmark, three months notice of intent to alter the site shall be given the survey.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-506 Report of discovery on state or private lands.

- (1) A person who discovers any paleontological resources on privately owned lands or on lands owned or controlled by the state or its subdivisions shall promptly report the discovery to the survey.
- (2) Field investigations shall be discouraged except in accordance with this chapter.
- (3) Nothing in this section may be construed to authorize a person to excavate for paleontological resources.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-507 State paleontological register -- Survey duties.

- (1) The survey shall establish a state paleontological register for the orderly identification and recognition of the state's paleontological resources.
- (2) The board shall notify owners of sites and localities before placing those sites or localities on the State Paleontological Register.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-508 Agency responsibilities -- Allowing director reasonable opportunity to comment.

- (1) Before expending state funds or approving an undertaking, each state agency shall:
 - (a) take into account the effect of the undertaking on a specimen that is included in or eligible for inclusion in the State Paleontological Register; and
 - (b) allow the director or assigned staff a reasonable opportunity to comment regarding the undertaking or expenditure.
- (2) The director or assigned staff shall advise on ways to maximize the amount of scientific, paleontological, and educational information recovered, in addition to the physical recovery of specimens and the reporting of paleontological information, at current standards of scientific rigor.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-509 Curriculum and materials for the training of volunteers who assist paleontologists.

- (1) The survey shall develop a curriculum and materials for the training of volunteers who assist paleontologists in the field and laboratory.
- (2) The director shall appoint a qualified survey employee to develop the curriculum and materials under this section.
- (3) The survey may request input and assistance from any interested organization in developing the curriculum and materials.
- (4) The survey may collect fees to cover the costs of the materials and updating of the curriculum.

Renumbered and Amended by Chapter 344, 2009 General Session

79-3-510 Protection of school and institutional trust land interests relating to paleontological resources.

- (1) The School and Institutional Trust Lands Administration shall develop policies and procedures for the excavation, preservation, placement in a repository, curation, and exhibition of critical paleontological resources from school and institutional trust lands that:
 - (a) are consistent with the provisions of the school and institutional land grants; and

- (b) insure that primary consideration is given, on a site or project specific basis, for the support of the beneficiaries of the school and institutional land grants.
- (2) Consistent with the provisions of the school and institutional land grants, the School and Institutional Trust Lands Administration may:
 - (a) preserve and develop sites found on school and institutional trust lands for scientific or educational purposes; and
 - (b) provide for the disposition of sites found on school and institutional trust lands, after the appropriate level of data recovery, for preservation, development, or economic purposes.

Renumbered and Amended by Chapter 344, 2009 General Session

Chapter 4 Parks and Recreation

Part 1 General Provisions

79-4-101 Title.

This chapter is known as "Parks and Recreation."

Enacted by Chapter 344, 2009 General Session

79-4-102 Definitions.

- (1) "Board" means the Board of Parks and Recreation.
- (2) "Division" means the Division of Parks and Recreation.

Enacted by Chapter 344, 2009 General Session

Part 2 Division Creation and Administration

79-4-201 Division of Parks and Recreation -- Creation -- Powers and authority.

- (1) There is created within the department the Division of Parks and Recreation.
- (2) The division is under:
 - (a) the administration and general supervision of the executive director; and
 - (b) the policy direction of the board.
- (3) The division is the parks and recreation authority for the state.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-202 Director -- Qualifications -- Duties.

- (1) The director is the executive and administrative head of the division.
- (2) The director shall demonstrate:
 - (a) executive ability; and

- (b) actual experience and training in the conduct of park and recreational systems involving both physical development and program.
- (3) The director shall:
 - (a) enforce the policies and rules of the board; and
 - (b) perform the duties necessary to:
 - (i) properly care for and maintain any property under the jurisdiction of the division; and
 - (ii) carry out this chapter.
- (4) The director shall acquire, plan, protect, develop, operate, use, and maintain park area and facilities in accordance with the policies and rules of the board.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-203 Powers and duties of division.

- (1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.
- (2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon it by law within state parks and on property controlled by the Division of Parks and Recreation with reference to fish and game.
- (3) The division shall permit multiple use of state parks and property controlled by it for purposes such as grazing, fishing, hunting, camping, mining, and the development and utilization of water and other natural resources.
- (4)
 - (a) The division may acquire real and personal property in the name of the state by all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.
 - (b) In acquiring any real or personal property, the credit of the state may not be pledged without the consent of the Legislature.
- (5)
 - (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of its intention to acquire the property.
 - (b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.
- (6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.
- (7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.
- (8)
 - (a) The division may make charges for special services and use of facilities, the income from which is available for park and recreation purposes.
 - (b) The division may conduct and operate those services necessary for the comfort and convenience of the public.
- (9)
 - (a) The division may lease or rent concessions of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board.
 - (b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

- (10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.
- (11) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-4-404.

Amended by Chapter 163, 2015 General Session

79-4-204 Division authorized to enter into contracts and agreements.

- (1) The division, with the approval of the executive director and the governor, may enter into contracts and agreements with the United States, a United States agency, any other department or agency of the state, semipublic organizations, and with private individuals to:
 - (a) improve and maintain state parks and recreational grounds and the areas administered by the division; and
 - (b) secure labor, quarters, materials, services, or facilities according to procedures established by the Division of Finance.
- (2) All departments, agencies, officers, and employees of the state shall give to the division the consultation and assistance that the division may reasonably request.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-205 Highways within state parks.

The division has jurisdiction over and responsibility for service roads, parking areas, campground loops, and related facilities within state parks.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-206 Support of a nonprofit corporation or foundation.

The division may provide administrative support to a nonprofit corporation or foundation that assists the board and the division in attaining the objectives outlined in the strategic or operational plan.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 3

Board Creation and Duties

79-4-301 Board of Parks and Recreation -- Creation -- Functions.

- (1) There is created within the department a Board of Parks and Recreation.
- (2) The board is the policy-making body of the division.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-302 Board appointment and terms of members -- Expenses.

- (1)
 - (a) The board is composed of nine members appointed by the governor, with the consent of the Senate, to four-year terms.

- (b) In addition to the requirements of Section 79-2-203, the governor shall:
 - (i) appoint one member from each judicial district and one member from the public at large;
 - (ii) ensure that not more than five members are from the same political party; and
 - (iii) appoint persons who have an understanding of and demonstrated interest in parks and recreation.
- (c) Notwithstanding the term requirements of Subsection (1)(a), the governor may adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (2) When vacancies occur because of death, resignation, or other cause, the governor, with the consent of the Senate, shall:
 - (a) appoint a person to complete the unexpired term of the person whose office was vacated; and
 - (b) if the person was appointed from a judicial district, appoint the replacement from the judicial district from which the person whose office has become vacant was appointed.
- (3) The board shall appoint its chair from its membership.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

79-4-303 Board meetings -- Quorum.

- (1) The board shall meet at least once every quarter, but special meetings may be held by call of the chairman or at the request of two members of the board.
- (2) Four members of the board shall constitute a quorum for the transaction of business.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-304 Board rulemaking authority.

- (1)
 - (a) The board may make rules:
 - (i) governing the use of the state park system;
 - (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and
 - (iii) to provide for public safety and preserve the peace within state parks.
 - (b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules that:
 - (i) close or partially close state parks; or
 - (ii) establish use or access restrictions within state parks.
 - (c) Rules made under Subsection (1) may not have the effect of preventing the transfer of livestock along a livestock highway established in accordance with Section 72-3-112.
- (2) The board shall adopt appropriate rules governing the collection of charges under Subsection 79-4-203(8).

Enacted by Chapter 344, 2009 General Session

79-4-305 Long-range plans.

The board shall formulate and cause to be put into execution by the department through the director of the division a long-range, comprehensive plan and program for the acquisition, planning, protection, operation, maintenance, development, and wise use of areas of scenic beauty, recreational utility, or historic, archaeological, or scientific interest, to the end that the health, happiness, recreational opportunities, and wholesome enjoyment of life of the people may be further encouraged within the general policies of the department.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 4 Finances

79-4-401 Funds to be appropriated -- Boating account expenses.

- (1) The Legislature shall appropriate such funds as from time to time necessary to carry out the purposes of this chapter to the division to be used by the division in the administration of the powers and duties and in carrying out the objective and purposes prescribed by this chapter.
- (2) It is the intent of the Legislature that all departmental operating and administrative expenses for the administration of the boating account of the division shall be charged against that account.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-402 State Park Fees Restricted Account.

- (1) There is created within the General Fund a restricted account known as the State Park Fees Restricted Account.
- (2)
 - (a) Except as provided in Subsection (2)(b), the account shall consist of revenue from:
 - (i) all charges allowed under Section 79-4-203;
 - (ii) proceeds from the sale or disposal of buffalo under Subsection 79-4-1001(2)(b); and
 - (iii) civil damages collected under Section 76-6-206.2.
 - (b) The account shall not include revenue the division receives under Section 79-4-403 and Subsection 79-4-1001(2)(a).
- (3) The division shall use funds in this account for the purposes described in Section 79-4-203.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-403 User fees for golf -- Wasatch Mountain, Palisade, and Green River State Parks.

- (1) The following user fees are assessed in the following parks for playing nine holes of golf:
 - (a) 15% of the green fees at Wasatch Mountain State Park;
 - (b) 15% of the green fees at Palisade State Park; and
 - (c) 15% of the green fees at Green River State Park.
- (2) The fee in Subsection (1) is:
 - (a) in addition to the fee set by the board; and
 - (b) to be used at the park where the money is collected for:
 - (i) the upgrade or development of facilities; or
 - (ii) the purchase of golf course operation and maintenance equipment and operating supplies or materials.

Amended by Chapter 256, 2010 General Session

Amended by Chapter 391, 2010 General Session

79-4-404 Zion National Park Support Programs Restricted Account -- Creation -- Funding -- Distribution of funds.

- (1) There is created within the General Fund the Zion National Park Support Programs Restricted Account.
- (2) The account shall be funded by:
 - (a) contributions deposited into the account in accordance with Section 41-1a-422;
 - (b) private contributions; or
 - (c) donations or grants from public or private entities.
- (3) The Legislature shall appropriate funds in the account to the division.
- (4) The board may expend up to 10% of the money appropriated under Subsection (3) to administer account distributions in accordance with Subsections (5) and (6).
- (5) The division shall distribute contributions to one or more organizations that:
 - (a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
 - (b) operate under a written agreement with the National Park Service to provide interpretive, educational, and research activities for the benefit of Zion National Park;
 - (c) produce and distribute educational and promotional materials on Zion National Park;
 - (d) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and
 - (e) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.
- (6)
 - (a) An organization described in Subsection (5) may apply to the division to receive a distribution in accordance with Subsection (5).
 - (b) An organization that receives a distribution from the division in accordance with Subsection (5) shall expend the distribution only to:
 - (i) produce and distribute educational and promotional materials on Zion National Park;
 - (ii) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and
 - (iii) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (5).

Renumbered and Amended by Chapter 344, 2009 General Session

Part 5
Enforcement

79-4-501 Peace officer authority of park rangers.

- (1) The division has the duty to:
 - (a) protect state parks and park property from misuse or damage; and

- (b) preserve the peace within state parks.
- (2) Employees of the division who are POST certified peace officers and who are designated as park rangers by the division director, are law enforcement officers under Section 53-13-103 and have all the powers of law enforcement officers in the state, with the exception of the power to serve civil process.
- (3) The division has the authority to deputize persons who are peace officers or special function officers to assist park rangers on a seasonal temporary basis.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-502 Violations of rules.

Unless otherwise provided in this title, a violation of any rule of the Board of Parks and Recreation is an infraction.

Renumbered and Amended by Chapter 344, 2009 General Session

Repealed and Re-enacted by Chapter 347, 2009 General Session

Part 6 State Parks

79-4-601 "This is the Place Monument," Camp Floyd, old statehouse -- Supervision and control.

- (1) The division shall administer and supervise the following historical monuments:
 - (a) "This is the Place Monument" site;
 - (b) Camp Floyd; and
 - (c) the old statehouse at Fillmore.
- (2) The division may make expenditures for maintenance and administration from funds:
 - (a) made available by appropriation; or
 - (b) that are available to the division.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-602 Mountain Meadow Massacre site included within state park system.

- (1) The Mountain Meadow Massacre site and monument is included within the state park system.
- (2) The division may:
 - (a) enter into an agreement with the United States Forest Service for the use of land at the site as a state park; and
 - (b) receive donations of land or facilities at the site for inclusion within the state park.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-603 Iron Mission Historical Monument -- Acceptance of gifts from Iron Mission Park Corporation.

The board shall accept on behalf of the state the Gronway Parry collection of horse-drawn vehicles, horses, harnesses, figures, costumes, and horse-drawn machinery of the pioneer era, the

Melling log cabin, the Osborne blacksmith collection, and a metal exhibit building, all being gifts to the state from the Iron Mission Park Nonprofit Corporation.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-604 Iron Mission Historical Monument -- Acquisition of property.

The division may:

- (1) acquire, construct, maintain, and operate any land areas, objects, or structures as necessary to preserve, protect, display, and enhance:
 - (a) the gifts described in Section 79-4-603; and
 - (b) other historical objects or collections donated, loaned, or otherwise acquired that appropriately contribute to the pioneer heritage of Utah; and
- (2) acquire, directly or through others, by purchase, contract, lease, permit, donations, or otherwise, all real or personal property, rights-of-way, approach roads, parking and other areas, structures, facilities and services that the division and board may consider necessary or desirable to accomplish Subsection (1).

Renumbered and Amended by Chapter 344, 2009 General Session

Part 7
this Is the Place Monument

79-4-701 Definitions.

As used in this part:

- (1) "Board of trustees" means the board of trustees of This is the Place Foundation.
- (2) "Foundation" means This is the Place Foundation, a private nonprofit corporation formed pursuant to Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- (3) "Member" means a member of the board of trustees.
- (4) "Monument" means This is the Place Monument at This is the Place State Park.
- (5) "Park" means This is the Place State Park, property owned by the state located at 2601 East Sunnyside Avenue, Salt Lake City.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-702 Agreement to manage -- Management fee.

- (1) In recognition of the need for private funds to continue the expansion and improvement of Old Deseret Village, a living history museum at the park, and the preference of donors to contribute to nonprofit organizations rather than government entities, the division may make an agreement with the foundation to manage, develop, and promote the park.
- (2) The division may pay a management fee to the foundation.
- (3) The division may not require the foundation to remit to the division any portion of the income generated from park operations.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-703 Terms of agreement.

Any agreement made pursuant to Section 79-4-702 shall include the following terms:

- (1) The foundation shall transfer to the state:
 - (a) title to any real property acquired by the foundation, upon completion of payment, if any, for the property by the foundation; and
 - (b) ownership of any artifacts or collections acquired by the foundation.
- (2) No fee may be charged to visit the monument.
- (3)
 - (a) Except as provided in Subsections (3)(b) and (3)(c), a member may not receive compensation or financial benefit, directly or indirectly, as a result of the member's service on the board of trustees.
 - (b) A member may receive per diem and expenses incurred in the performance of the member's duties at the rates established by the board of trustees.
 - (c) A member may deal or contract with the foundation, provided that:
 - (i) no person or entity is paid any fee, salary, rent, or other payment of any kind in excess of the fair market value for the service rendered, goods furnished, or facilities or equipment rented; and
 - (ii) at a meeting of the board of trustees or subcommittee of the board of trustees having authority to authorize or confirm the contract or transaction:
 - (A) a quorum of the board of trustees or subcommittee is present;
 - (B) the interest of the member is disclosed;
 - (C) a majority of the quorum votes to approve the contract or transaction; and
 - (D) in determining a majority under Subsection (3)(c)(ii)(C), the vote of any member having an interest in the contract or transaction is not counted.
- (4) The foundation shall obtain an annual audit prepared:
 - (a) by an independent public accounting firm; and
 - (b) in accordance with generally accepted accounting standards.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-704 Use of waters from Wagner Spring.

The division may use the waters from the Wagner Spring located on the park for any purposes connected with the upkeep and maintenance of the park, including the monument.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-705 Agreement with public utility companies as to easements or rights-of-way across park.

The division may enter into agreements with public utility companies for the granting and maintenance of easements or rights-of-way across the park.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 8 Riverway Enhancement

79-4-801 Provo-Jordan River Parkway Authority transferred to Division of Parks and Recreation.

All properties, rights, interests, powers, functions, duties, and obligations of the Provo-Jordan River Parkway Authority are transferred to the division.

Renumbered and Amended by Chapter 344, 2009 General Session

79-4-802 Riverway enhancement grants -- Matching funds requirements -- Rules.

- (1)
 - (a) The division may give grants to local governments and state agencies for riverway enhancement projects with funds appropriated by the Legislature for that purpose.
 - (b) Each grant recipient must provide matching funds having a value that is equal to or greater than the grant funds received.
 - (c) The board may allow a grant recipient to provide property, material, or labor in lieu of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.
- (2) The board shall:
 - (a) make rules setting forth procedures and criteria for the awarding of grants for riverway enhancement projects; and
 - (b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with the division.
- (3) Rules for the awarding of grants for riverway enhancement projects shall provide that:
 - (a) each riverway enhancement project for which grant funds are awarded must be along a river or stream that is impacted by high density populations or prone to flooding; and
 - (b) riverway enhancement proposals that include a plan to provide employment opportunities for youth, including at-risk youth as defined in Section 79-5-501, in the development of the riverway enhancement project is encouraged.

Renumbered and Amended by Chapter 344, 2009 General Session

**Part 9
Pioneer Heritage**

79-4-901 Pioneer heritage of Utah -- Acquisitions and operations by division.

- (1) The division may acquire, construct, maintain, and operate any land areas, objects, or structures as necessary to preserve, protect, display, and enhance any gifts and other historical objects or collections donated, loaned, or otherwise acquired that appropriately contribute to the pioneer heritage of Utah.
- (2) To accomplish Subsection (1), the division may directly or through others, by purchase, contract, lease, permit, donation, or otherwise, secure all real or personal property, rights-of-way, approach roads, parking and other areas, structures, facilities, and services that the division and board may consider necessary or desirable to contribute to the pioneer heritage of Utah.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 10

Miscellaneous

79-4-1001 Purchase, trade, sale, or disposal of buffalo -- Proceeds.

- (1) In accordance with a plan, approved by the board, to manage buffalo herds on Antelope Island, the division may purchase, trade, sell, or dispose of buffalo obtained from Antelope Island through:
 - (a) competitive bidding; or
 - (b) a means as established by rule.
- (2) Proceeds received from the sale or disposal of buffalo under this section shall be deposited as follows:
 - (a) the first \$75,000 shall accrue to the division for the management of Antelope Island buffalo herds as dedicated credits; and
 - (b) proceeds in excess of \$75,000 shall be deposited in the State Park Fees Restricted Account created under Section 79-4-402.

Amended by Chapter 391, 2010 General Session

Part 11

Contingency Planning for Management of Federal Land

79-4-1101 Title.

This part is known as "Contingency Planning for Management of Federal Land."

Enacted by Chapter 313, 2014 General Session

79-4-1102 Contingency plan for federal property.

- (1) As used in this part, "fiscal emergency" means a major disruption in the operation of one or more national parks, national monuments, national forests, or national recreation areas in the state caused by the unforeseen or sudden significant decrease or elimination of funding from the federal government.
- (2) During a fiscal emergency, and subject to congressional approval, the governor's agreement with the United States Department of the Interior, or a presidential executive order, the governor is authorized to enter into an agreement with the federal government to ensure that one or more national parks, national monuments, national forests, or national recreation areas in the state, according to the priority set under Section 79-4-1103, remain open to the public.

Enacted by Chapter 313, 2014 General Session

79-4-1103 Governor's duties -- Priority of federal property.

- (1) During a fiscal emergency, the governor shall:
 - (a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, and national recreation areas in the state, in the order established under this section; and

- (b) report to the speaker of the House and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, and national recreation areas in the state.
- (2) The director of the Outdoor Recreation Office, created in Section 63N-9-104, in consultation with the executive director of the Governor's Office of Economic Development, shall determine, by rule, the priority of national parks, national monuments, national forests, and national recreation areas in the state.
- (3) In determining the priority described in Subsection (2), the director of the Outdoor Recreation Office shall consider the:
 - (a) economic impact of the national park, national monument, national forest, or national recreation area in the state; and
 - (b) recreational value offered by the national park, national monument, national forest, or national recreation area.
- (4) The director of the Outdoor Recreation Office shall:
 - (a) report the priority determined under Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2014; and
 - (b) annually review the priority set under Subsection (2) to determine whether the priority list should be amended.

Amended by Chapter 283, 2015 General Session

Chapter 5 Recreational Trails

Part 1 General Provisions

79-5-101 Title.

This chapter is known as "Recreational Trails."

Enacted by Chapter 344, 2009 General Session

79-5-102 Definitions.

As used in this chapter:

- (1) "Board" means the Board of Parks and Recreation.
- (2) "Council" means the Recreational Trails Advisory Council.
- (3) "Division" means the Division of Parks and Recreation.
- (4) "Recreational trail" or "trail" means a multi-use path used for:
 - (a) muscle-powered activities, including:
 - (i) bicycling;
 - (ii) cross-country skiing;
 - (iii) walking;
 - (iv) jogging; and
 - (v) horseback riding; and
 - (b) uses compatible with the uses described in Subsection (4)(a).

Renumbered and Amended by Chapter 344, 2009 General Session

79-5-103 Division to plan and develop recreational trails in cooperation with public and private entities -- Priorities.

- (1) The division shall plan and develop a recreational trail system throughout the state that:
 - (a) provides for outdoor recreation needs; and
 - (b) facilitates access to, travel within, and enjoyment and admiration of the outdoors.
- (2) To assure that an integrated trails network is achieved, the division shall coordinate the planning and development of trails with:
 - (a) federal land management agencies;
 - (b) local governments;
 - (c) private landowners; and
 - (d) state agencies.
- (3) The division shall give priority to establishing trails that:
 - (a) cross public lands;
 - (b) are in proximity or accessible to urban areas;
 - (c) implement rail-to-trail conversions pursuant to the National Trails System Act, 16 U.S.C. Sec. 1241 et seq.;
 - (d) provide linkage to existing trails; and
 - (e) provide linkage or access to natural, scenic, historic, or recreational areas of statewide significance.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 2
Advisory Council

79-5-201 Recreational Trails Advisory Council.

- (1) The division shall establish a Recreational Trails Advisory Council.
- (2) The council shall advise and make recommendations to the board and division regarding:
 - (a) trails to be established;
 - (b) facilities to be constructed;
 - (c) development costs;
 - (d) modes of travel permitted;
 - (e) law enforcement;
 - (f) selection of rights-of-way;
 - (g) interlocal agreements;
 - (h) selection of signs and markers;
 - (i) the general administration of trails;
 - (j) distribution of matching funds pursuant to Section 79-5-501; and
 - (k) future funding mechanisms for trail development.

Renumbered and Amended by Chapter 344, 2009 General Session

79-5-202 Council membership -- Expenses.

- (1) The council shall consist of 10 members knowledgeable about muscle-powered recreational activities as follows:
 - (a) five members shall represent the public at large;
 - (b) one member, nominated by the Utah League of Cities and Towns, shall represent city government;
 - (c) one member, nominated by the Utah Association of Counties, shall represent county government;
 - (d) one member shall represent the United States Forest Service;
 - (e) one member shall represent the Bureau of Land Management; and
 - (f) one member shall represent the National Park Service's River, Trails, and Conservation Assistance Program.
- (2)
 - (a) Except as required by Subsection (2)(b), as terms of current council members expire, the division shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.
- (3) The council shall elect annually a chair and a vice chair from its members.
- (4) When a vacancy occurs in the membership for any reason, the division shall appoint the replacement for the unexpired term.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 256, 2010 General Session

Amended by Chapter 286, 2010 General Session

Part 3

Trail Development

79-5-301 Guidelines for the establishment of trails.

In establishing trails, the division shall:

- (1) develop and manage the trails to harmonize with and complement any existing or planned land uses;
- (2) locate and design trails according to an overall plan that provides for:
 - (a) interconnecting routes, where feasible; and
 - (b) consideration of safety; and
- (3) select trails to minimize adverse effects on:
 - (a) an adjacent landowner or user and the landowner's or user's property or operations;
 - (b) wildlife; and
 - (c) the natural environment.

Renumbered and Amended by Chapter 344, 2009 General Session

79-5-302 Recreational trail categories.

The division may plan and develop the following categories of recreational trails as part of the state trails system:

- (1) cross-state trails that connect scenic, natural, historic, geologic, geographic, or other significant features;
- (2) water-oriented trails that provide a path to or along lakes, streams, or reservoirs;
- (3) scenic-access trails that give access to recreation, scenic, natural, historic, or cultural areas;
- (4) urban trails that connect parks, scenic and natural areas, historical sites, and neighboring communities within a county of the first or second class; and
- (5) interpretive trails that identify:
 - (a) historic routes; and
 - (b) significant natural features.

Renumbered and Amended by Chapter 344, 2009 General Session

79-5-303 Establishment of uniform signs and markers.

The division, in consultation with appropriate federal, state, and local government agencies and private organizations, shall establish uniform signs and markers for the system of recreational trails.

Renumbered and Amended by Chapter 344, 2009 General Session

79-5-304 Public hearings required.

- (1) Prior to establishing any recreational trail under the jurisdiction and control of the division, the division shall conduct a public hearing in the area or areas of the state where the trail is proposed to be located.
- (2) Information to be considered at the hearings shall include the following:
 - (a) the proposed route of the trail and the recommended modes of travel to be permitted on it;
 - (b) any plans to utilize areas adjacent to the trail for scenic, historic, natural, cultural, or developmental purposes;
 - (c) the characteristics that, in the judgment of the division, make the proposed trail suitable as a recreational trail;
 - (d) the current status of land ownership and the current and potential use of land along the designated route;
 - (e) the estimated cost of acquisition of lands or any interest in lands;
 - (f) the plans and estimated costs for developing and maintaining the trail;
 - (g) any plans for sharing the costs of developing, operating, and maintaining the trail among state, federal, and local governmental entities and private organizations;
 - (h) any anticipated problems of policing the trail; and
 - (i) any anticipated hazards to private lands adjacent to the trail.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 4 Trail Operation and Maintenance

79-5-401 Cooperative agreements.

The division may enter into cooperative agreements with federal, state, or local governmental entities, private landowners, or private corporations that specify the responsibilities of each entity for the development, operation, and maintenance of trails, including law enforcement along trails.

Renumbered and Amended by Chapter 344, 2009 General Session

Part 5 Trail Funding

79-5-501 Grants -- Matching funds requirements -- Rules.

- (1)
 - (a) The board may give grants to federal government agencies, state agencies, or local governments for the planning, acquisition, and development of trails within the state's recreational trail system with funds appropriated by the Legislature for that purpose.
 - (b)
 - (i) Each grant recipient must provide matching funds having a value that is equal to or greater than the grant funds received.
 - (ii) The board may allow a grant recipient to provide property, material, or labor in lieu of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.
- (2) The board shall:
 - (a) make rules setting forth procedures and criteria for the awarding of grants for recreational trails; and
 - (b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with the council and the division.
- (3) Rules for the awarding of grants for recreational trails shall provide that:
 - (a) each grant applicant must solicit public comment on the proposed recreational trail and submit a summary of that comment to the division;
 - (b) each trail project for which grant funds are awarded must conform to the criteria and guidelines specified in Sections 79-5-103, 79-5-301, and 79-5-302; and
 - (c) trail proposals that include a plan to provide employment opportunities for youth, including at-risk youth, in the development of the trail is encouraged.
- (4) As used in this section, "at-risk youth" means youth who:
 - (a) are subject to environmental forces, such as poverty or family dysfunction, that may make them vulnerable to family, school, or community problems;
 - (b) perform poorly in school or have failed to complete high school;
 - (c) exhibit behaviors that have the potential to harm themselves or others in the community, such as truancy, use of alcohol or drugs, and associating with delinquent peers; or
 - (d) have already engaged in behaviors harmful to themselves or others in the community.

Renumbered and Amended by Chapter 344, 2009 General Session

79-5-502 Donations.

The division may receive, from any person, donated funds, property, or services for specified or nonspecified uses associated with the planning, acquisition, development, and administration of recreational trails.

Renumbered and Amended by Chapter 344, 2009 General Session

79-5-503 Bonneville Shoreline Trail Program.

- (1) There is created the Bonneville Shoreline Trail Program.
- (2) The program shall be funded from the following sources:
 - (a) appropriations made to the program by the Legislature; and
 - (b) contributions from other public and private sources.
- (3) All money appropriated to the Bonneville Shoreline Trail Program is nonlapsing.
- (4) The Bonneville Shoreline Trail is intended to:
 - (a) follow on or near the old Lake Bonneville shoreline terrace near the foot of the Wasatch Mountains from Juab County through Cache County; and
 - (b) provide continuous and safe trails.
- (5)
 - (a) The program money shall be used to provide grants to local governments for the planning, development, and construction of the Bonneville Shoreline Trail.
 - (b) Grant recipients shall provide matching funds in accordance with Section 79-5-501.

Amended by Chapter 342, 2011 General Session